



525-535 West Jefferson Street • Springfield, Illinois 62761-0001 • www.dph.illinois.gov

September 13, 2021

Via E-mail

Vince Espi
foia2@locallabs.com

Re: Freedom of Information Request No.: DPH 1608 FOIA

Dear Mr. Vince Espi,

Your request calls for individual hospital data related to Covid-19. While the Department publishes this data on a Statewide and regional basis, *see* <https://www.dph.illinois.gov/content/covid-19-hospitalization-utilization>, we are unable to provide it on a hospital-by-hospital basis.

First, Section 7(1)(a) of FOIA makes exempt from inspection and copying “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” Here, the requested information is prohibited from disclosure under Section 4(d) of the Illinois Health Statistics Act (“IHSA”) and Section 4-2(d)(8)(xi) of the Illinois Health Finance Reform Act (“IHFRA”). 410 ILCS 520/4; 20 ILCS 2215/4-1.

Second, Section 7(1)(v) of FOIA makes exempt from copying and inspection “[v]ulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community’s population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.” 5 ILCS 140/7(v).

Furthermore, the Department is denying your request pursuant to Section 7(1)(a) of the Freedom of Information Act (5 ILCS 140). Section 7(1)(a) exempts from disclosure “information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.” The Illinois Department of Public Health is charged with protecting the confidentiality of cases. Once persons are identified, their health conditions can be revealed, and their privacy violated. Geographic variables, including the location where a person was treated or is under investigation, is a key variable in uniqueness that can lead to identification of a patient.

Below are the Illinois Statutes/Rules that govern patient confidentiality:

1. Control of Communicable Diseases Code, 77 IAC 690.200(d):

d) Confidentiality

1) The Department will maintain the confidentiality of information that would identify individual patients.

6) To prevent the spread of a contagious disease, or a dangerously contagious or infectious disease, the Department, local boards of health, and local public health authorities shall have emergency access to medical or health information or records or data upon the condition that the Department, local boards of health, and local public health authorities protect the privacy and confidentiality of any medical or health information or records or data obtained pursuant to Section 2 of the Department of Public Health Act, in accordance with federal and State law. Any medical or health information or records or data shall be exempt from inspection and copying under the Freedom of Information Act. Any person, facility, institution, or agency that provides emergency access to health information and data shall have immunity from any civil or criminal liability, or any other type of liability that might result, except in the event of willful and wanton misconduct. The privileged quality of communication between any professional person or any facility shall not constitute grounds for failure to provide emergency access.

8) Information contained in I-NEDSS and other Department registries shall be confidential and not subject to inspection by persons other than authorized personnel or agents of the Department, certified local health authorities, and other authorized persons or agencies authorized in this Part.

2. Health Statistics Act, 410 ILCS 520/5 (a) and 4(d)

Sec. 5. (a) The Department may make no disclosure of any item, collection or grouping of health data which makes the individual supplying or described in such data identifiable. Section 4(d) of the Act also states that except as provided in Section 5, no health data obtained in the course of activities undertaken or supported under this Act may be used for any purpose other than the purpose for which they were supplied or for which the individual or organization described in the data has otherwise consented. Section 5 of the Health Statistics Act. In the current situation, IDPH has collected the requested information based on an understanding that it will be used for public health purpose, and healthcare emergency preparedness and response activities, including statewide planning and decision-making.

3. Finally, the Department of Public Health Act (DPH Act) prohibits the disclosure of the data sought in this FOIA request. Section 2(h) of the DPH Act states: “To prevent the spread of a dangerously contagious or infectious disease, the Department, local boards of health, and local public health authorities shall have emergency access to medical or health information or records or data upon the condition that the Department, local boards of health, and local public health authorities shall protect the privacy and confidentiality of any medical or health information or records or data obtained pursuant to this Section in accordance with federal and State law. Additionally, any such medical or health information or records or data shall be exempt from inspection and copying under the Freedom of Information Act.”

The Department accordingly is denying your request as written for the reasons stated above.

You may request a review of this denial by contacting the Office of the Public Access Counselor at:

Public Access Counselor
Office of the Illinois Attorney General
500 S. Second St.
Springfield, IL 62706
Fax: 217-782-1396
Email: publicaccess@atg.state.il.us

You also have the right to file for injunctive or declaratory relief in the circuit court for Sangamon County or the county where you live (5 ILCS 140/11).

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter (5 ILCS 140/9.4(a)). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

If I can be of further assistance you can contact me at DPH.FOIA@Illinois.gov, or write to me at 535 West Jefferson St., Springfield, IL 62761-0001.

Sincerely,

Nicole Rhim

Nicole Rhim
Attorney